IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 17250 of 2007(C)

PETITIONERS:

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1. AJITH KUMAR, S/O. KARTHIKEYAN,
KARTHIKA BHAVAN, KURATTIKKAD, MANNAR P.O.,
ALAPPUZHA DISTRICT.

2. SAJITH KUMAR, S/O. KARTHIKEYAN,
-DO- -DO-

BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM
SRI.N.K.KARNIS

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. INSPECTOR GENERAL OF REGISTRATION,
KERALA, THIRUVANANTHAPURAM.

3. SUB REGISTRAR,
SUB REGISTRAR OFFICE, DEVIKULAM P.O.,
IDUKKI DISTRICT.

4. DISTRICT COLLECTOR,
IDUKKI DISTRICT, PAINAVU P.O., IDUKKI DISTRICT.

BY SR. GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.17250/2007 C

APENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE SALE DEED DTD. 13/08/1965 BEARING NO. 5667/1965 OF SUB REGISTRAR'S OFFICE, DEVIKULAM.**

EXT.P2: **COPY OF THE POWER OF ATTORNEY IN THE NAME OF THE GENERAL SECRETARY OF ESUSI DTD. 2/12/1991.**

EXT.P3: **COPY OF THE SALE DEED DTD. 5/12/1991 BEARING NO. 2028/1991 OF THE SUB REGISTRAR'S OFFICE, DEVIKULAM.**

EXT.P4: **OCPY OF THE SALE DEED DTD. 29/12/2001 BEARING NO. 2492/2001 OF SUB REGISTRAR'S OFFICE, DEVIKULAM.**

EXT.P5: **COPY OF TAX RECEIPT DTD. 2/01/2002 ISSUED FROM THE K.D.H.VILLAGE OFFICE, DEVIKULAM.**

EXT.P6: **COPY OF THE SALE DEED IN FAVOUR OF THE PETITIONER FOR 17 CENTS OF PROPERTY IN KDH VILLAGE DTD. 13/02/2007.**

EXT.P7: **COPY OF THE APPLICATION SUBMITTED BY THE PETITIONERS BEFORE THE DISTRICT COLLECTOR, IDUKKI DTD. 27/02/2007.**

EXT.P8: **OCPY OF THE LETTER ISSUED BY THE SUB REGISTRAR TO THE 1ST PETITIONER BEARING NO.C.72/07 DTD. 21/05/07.**

EXT.P9: **COPY OF THE ORDER OF THE 3RD RESPONDENT ALONGWITH THE RELEVANT EXTRACT OF A GOVERNMENT ORDER REFERRED THEREIN DTD. 7/12/2006 BEARING NO.R.R.3-2477/06.**

EXT.P10: **COPY OF THE ORDER OF THE LAND BOARD OF KERALA DTD. 29/03/1974 BEARING NO.LB(A) 2-5227/71.**

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) NO.17250 OF 2007 C
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Dated this the 28th day of November, 2007

J U D G M E N T

Petitioner seeks a direction to the 3rd respondent to receive Ext.P6 on re-presentation and register it without insisting on any No Objection Certificate or other conditions contrary to the Registration Act and Registration Rules.

2. The facts of the case are that as per Ext.P6, petitioner purchased 19 cents of land in KDHP village and the document was presented before the 3rd respondent for registration. However, the 3rd respondent returned the document by Ext.P8, with a direction to resubmit the same with an NOC from the Revenue Authority for registration. The document was returned by Ext.P8 referring to Ext.P9 circular issued by the 2nd respondent. Ext.P9 shows that when documents are presented for registration, in view of the registration based on fraudulent pattas, the Sub Registrars have been directed to verify the corresponding patta and other documents to ensure that Registration is not based on fraudulent documents.

3. Petitioner contends that Ext.P9 is inapplicable so far as the petitioner's land is concerned since the title to the land is not traced on any patta that is issued in his favour or in favour of his predecessors. This contention seems to be well founded. It is submitted by the petitioner that the land in question originally belonged to Kannan Devan Hill Produce Company. Petitioner is also referring to Ext.P10, an order of the Land Board of Kerala which indicates that 30 cents of land was sold by Company to the Estate Staff Union of South India. This plot has been deducted from the land holding of the KDHP Company from the proceedings under the Kerala Land Reforms Act. It is submitted that 19 cents purchased by the petitioner by Ext.P6 is a portion of the 30 cents which is excluded from Ext.P10.

4. Petitioner has also stated that the ESUSI, to which the 30 cents was sold by the company had transferred the land by Ext.P2 and further transactions have also taken place by Exts. P3 and P4 and ultimately reached the petitioner by Ext.P6. Thus, it is evident from Ext.P10 proceedings of the Kerala Land Board and also documents of title such as Exts. P2, P3 and P4, it is obvious

that the title to the land is not covered by any patta that is issued.

5. If that be so, the circular in question namely Ext.P9 is inapplicable to the land. Consequently, the refusal of the 3rd respondent to register the document relying on Ext.P9 has to be held illegal. Accordingly, quashing Ext.P8, I dispose of this writ petition directing that on re-presentation on Ext.P6 document, the 3rd respondent shall receive the same and register the document without insisting on the compliance with Ext.P9 circular.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

Rp